



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 8, 1991

Mr. Wayne F. Schaper
Spring Branch I.S.D.
P.O. Box 19432
Houston, Texas 77224-9432

OR91-473

Dear Mr. Schaper:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13192.

You have received a request for copies of personnel records relating to two administrative employees of the Spring Branch Independent School District. The requested information includes applications for employment, evaluations, employee salaries, birth dates, assignments, professional organization memberships, teaching certificates, and social security numbers. You claim that the requested information is excepted from required public disclosure by sections 3(a)(1), 3(a)(2), and 3(a)(11) of the Open Records Act.

Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." You have not made clear why you believe the requested information to be excepted under section 3(a)(1). However, employees' educational training, names and addresses of former employers, dates of employment, kind of work, salary, and reasons for leaving, names, occupations, addresses and phone numbers of character references, job performances or abilities, names of friends or relatives employed by the governmental body, birth dates, height, weight, marital status, and social security number are not excepted from required public disclosure by section 3(a)(1). See Open Records Decision No. 455 (1987). Information about illnesses and operations

and physical handicaps of applicants is protected. *Id.* Where such information is contained in the requested personnel records, it may be deleted before disclosure. Otherwise, no part of the requested information is excepted from required public disclosure by the privacy aspect of section 3(a)(1) nor by any specific statutory exception.

Section 3(a)(2), however, specifically excepts from required public disclosure "transcripts from institutions of higher education maintained in the personnel files of professional public school employees; provided, however, that nothing in this section shall be construed to exempt from disclosure the degree obtained and the curriculum on such transcripts of professional public school employees." In Open Records Decision No. 526 (1989), this office held that the governmental bodies must edit from professional public school employees' transcripts information other than the employee's name, the degree obtained, and the courses taken.

As for the rest of the material in the personnel file, Open Records Decision No. 444 (1986), citing *Industrial Found. of the South v. Texas Indust. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977), held that information contained in personnel files may be withheld from required public disclosure only if the information is highly intimate or embarrassing such that a reasonable person would object to its release *and* the public has no legitimate interest in it. In Open Records Decision Nos. 342, 329 (1982) and 298 (1981), this office held that certain information about public employees, including their licenses and certificates, professional awards and recognition, educational level, membership in professional organizations, and prior employment are open to the public. Accordingly, requested information such as described above may not be withheld under section 3(a)(2).

Finally, you claim that certain information included in the request is excepted from required public disclosure by section 3(a)(11), which excepts "inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency." Section 3(a)(11) excepts memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policy-making or deliberative process. Open Records Decision No. 462 (1987) at 14. Two memoranda included among the requested documents may be withheld, as they contain nothing but recommendation. These have been marked for your convenience. In addition, you are correct in contending that references submitted on behalf of the employees may be excepted under section 3(a)(11). The references contain advice, opinion, and

recommendation and, with the exception of the names, occupations, addresses and phone numbers of the references (*See* Open Records Decision No. 455), may be withheld in their entirety. Finally, you claim that the evaluation profiles are excepted by section 3(a)(11). We agree. In Open Records Decision No. 345 (1982), this office held that evaluations of named officials are excepted by section 3(a)(11). Accordingly, the evaluations may be withheld in their entirety. All other information must be disclosed immediately.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-473.

Very truly yours,



Rick Gilpin
Assistant Attorney General
Opinion Committee

RG/GK/lb

Enclosure: Returned Documents

Ref.: ID# 13192

cc: Dr. Teddy Pope
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